IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.6552 OF 2004

Mr.V.B.Naik for the Petitioner.

Office Notes, Office Memoranda of Coram, appearances, Court's order or directions	Court's or Judge's orders
	CORAM: D.K.DESHMUKH, J.
	DATED: 6TH JULY,2005

P.C.:

Heard the learned Counsel for the Petitioner. Perused the impugned order. It is clear from Explanation 1 below Article 25 of the Schedule I of the Bombay Stamp Act that when under an agreement of sale the possession is handed over to the prospective purchaser, stamp duty is payable on the agreement of sale as if it is conveyance. The learned Counsel appearing for the Petitioner relies on an order passed by the learned Single Judge of this Court in the case of Balasaheb Sahebrao

Jadhav v/s. Hanumant Bhaurao Deshmukh, 1995(1) Mh.L.J. 473 to contend that unless the property is transferred, stamp duty is not payable. Interpretation put on the word "transfer" appearing in Explanation 1 is obviously wrong. Judgment does not considered the provisions of the Transfer of Property Act relating to handing over of possession to a prospective purchaser under an agreement of sale. In my opinion, interpretation put on the provisions of Article 25 by the court below is perfectly right. The order relied on by the learned Counsel for the Petitioner of the learned Single Judge of this court is obviously per-incurrium. Petition is rejected.

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